

भारत का राजपत्र The Gazette of India

प्रसाधारण

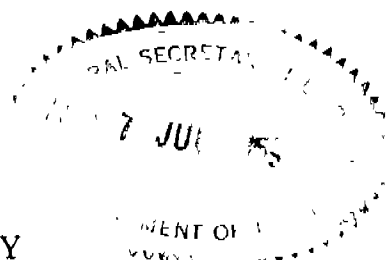
EXTRAORDINARY

भाग II—खंड 2

PART II—Section 2

प्राधिकार से प्रकाशित

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No. 5 NEW DELHI, TUESDAY, FEBRUARY 25, 1969/PHALGUNA 6, 1890

इस भाग में निम्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 25th February, 1969:—

I

Bill No. IX of 1969

A Bill further to amend the Public Wakfs (Extension of Limitation) Act, 1959.

Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

1. This Act may be called the Public Wakfs (Extension of Limitation) Amendment Act, 1969.

Short title.

2. In the Public Wakfs (Extension of Limitation) Act, 1959 (hereinafter referred to as the principal Act), in section 3, for the words, figures and letters "the 31st day of December, 1968", the words, figures and letters "the 31st day of December, 1970" shall be substituted.

Amendment of section 3 of Act 29 of 1959.

3. (1) The Public Wakfs (Extension of Limitation) Amendment Ordinance, 1968, is hereby repealed.

Repeal and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act as if this Act had come into force on the 31st day of December, 1968.

STATEMENT OF OBJECTS AND REASONS

Following the partition of the country in August, 1947, a number of Wakf properties including mosques, idgaahs, dargahs, khan khas, imam-baras and graveyards, etc., passed into unauthorised hands. The mut-wallis, who were in charge of these properties, could not for various reasons institute civil proceedings for the recovery of possession of these properties. The result is, that ever since the partition, a large number of these wakf properties have been in the possession of unauthorised occupants. To save the title of the true owners from being extinguished if the properties were in adverse possession for twelve years or more, the Public Wakfs (Extension of Limitation) Act, 1959, was enacted to extend up to the 15th August, 1967, the period of limitation in respect of suits for the recovery of possession of any immovable property forming part of a public wakf in any case where the dispossession had taken place or possession had discontinued at any time between the 15th August, 1947 (the date of partition) and the 7th May, 1954 (the date from which power to declare any property as evacuee property under the Administration of Evacuee Property Act, 1950, ceased). This was done to enable the Wakf Boards constituted under the Wakf Act and other interested persons to institute suits for recovery of such properties.

2. By an Amendment Act of 1967, the period of limitation under the Public Wakfs (Extension of Limitation) Act, 1959, was extended up to the 31st December, 1968. The full benefit of this extended period of limitation could not be availed of in the various States where most of these wakf properties were situated because of the delayed establishment of the respective Wakf Boards and survey of wakf properties having not been completed. Although about 13,000 recovery suits were filed by December, 1968, some more cases remained to be filed and further it was expected that on the completion of survey of the Wakfs in the various States, many more cases of unlawful occupation of wakf properties would come to light. In order to cover all such cases it became necessary to extend the period of limitation further. Accordingly, by the Public Wakfs (Extension of Limitation) Amendment Ordinance, 1968, the period was extended up to the 31st day of December, 1970.

3. The Bill seeks to replace the afore-mentioned Ordinance by an Act of Parliament.

NEW DELHI;

FAKHRUDDIN ALI AHMED.

The 20th February, 1969.

II

Bill No. VIII of 1969

A Bill further to amend the Limitation Act, 1963.

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

1. This Act may be called the Limitation (Amendment) Act, 1969.

2. In section 30 of the Limitation Act, 1963, in clause (a),—

(a) for the words “five years”, the words “seven years” shall be, and shall be deemed always to have been, substituted;

(b) the following proviso shall be inserted at the end, namely:—

“Provided that if in respect of any such suit, the said period of seven years expires earlier than the period of limitation prescribed therefor under the Indian Limitation Act, 1908 and the said period of seven years together with so much of the period of limitation in respect of such suit under the Indian Limitation Act, 1908, as has already expired before the commencement of this Act is shorter than the period prescribed for such suit under this Act, then, the suit may be instituted within the period of limitation prescribed therefor under this Act.”.

9 of 1908.

Ordinance
12 of 1968.

3 The Limitation (Amendment) Ordinance, 1968 is hereby repealed.

Short
title.

Amend-
ment of
section 30
of Act 36
of 1963.

Repeal.

STATEMENT OF OBJECTS AND REASONS

The Limitation Act, 1963 (hereinafter referred to as the 1963-Act) repealed and re-enacted with modifications the provisions of the Indian Limitation Act, 1908 (hereinafter referred to as the 1908-Act). Clause (a) of section 30 of the 1963-Act provides a special period of limitation in respect of suits relating to causes of action which had arisen before the commencement of the Act and for which the period of limitation prescribed under that Act is shorter than the period prescribed under the 1908-Act. The clause as originally enacted provided that such suits may be instituted within the period of limitation prescribed under the 1908-Act or within a period of five years from the commencement of the 1963-Act, whichever period expires earlier. The 1963-Act reduced the period of limitation somewhat drastically in respect of certain types of suits. The suits in respect of which the periods of limitation were reduced by the Act include, *inter alia*, not only suits by or on behalf of Government but also certain types of suits by private individuals. In the case of suits by and on behalf of Government the period of limitation was reduced from 60 to 30 years. Amongst reductions made in the case of suits by private individuals, particular mention may be made of the reduction from 60 years to 30 years in the case of suits to redeem or recover possession of immovable property which has been mortgaged and of the reduction from 30 years to 3 years in the case of suits for recovery of movable property deposited or pawned from a depository or a pawnee. The effect of section 30(a) of the 1963-Act on these cases may be explained by an illustration. A mortgagor is a debtor and whereas the 1908-Act gave him a period of 60 years to find money to repay his debt and redeem his properties and whereas even the 1963-Act gave him a period of 30 years, in cases to which section 30(a) of the 1963-Act is attracted, the period may become reduced considerably and in an extreme case where the cause of action has arisen a day before the commencement of the 1963-Act, the maximum period would be 5 years. In view of these anomalous consequences and as the maximum period of 5 years provided under section 30(a) of the 1963-Act was due to expire on the 31st December, 1968, an Ordinance, namely, the Limitation (Amendment) Ordinance, 1968 was promulgated on the 31st December, 1968 to amend, *inter alia*, section 30(a) of the 1963-Act so as to increase the maximum period provided therein from 5 years to 7 years.

2. It is felt that even the extension of the maximum period of 5 years provided in clause (a) of section 30 of the 1963-Act by 2 more years will not be sufficient to avoid the anomalous consequences arising out of the provisions of that clause and that in addition to such extension, it would be necessary to ensure that in the case of no suit the period of limitation actually available will fall short of the period prescribed in the 1963-Act even if the cause of action arose before the commencement of the 1963-Act.

3. The Bill seeks to replace the provisions of the Limitation (Amendment) Ordinance, 1968 in so far as they relate to section 30(a) of the 1963-Act by an Act of Parliament giving effect to the afore-mentioned objects.

NEW DELHI;
The 20th February, 1969.

MOHD. YUNUS SALEEM.

B. N. BANERJEE,
Secretary.

